IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 64 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI
and
Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HASMUKHBHAI @ CHUKO ISHWARBHAIBARIYA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Appeal No. 64 of 2003
MR PANKAJ K SONI for Appellant
MR AJ DESAI, APP for Respondent No. 1

CORAM : MR.JUSTICE D.K.TRIVEDI
and
MR.JUSTICE C.K.BUCH

Date of decision: 01/07/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE D.K.TRIVEDI)

1. The appellant-accused had filed this appeal through jail and challenged the judgment and order of conviction recorded by the ld. Addl. Sessions Judge, Vadodara, Fast Track Court No.3, dated 3.1.2003 while disposing of Sessions Case No. 113/2001. As the appellant accused has preferred this appeal through jail, he had requested that necessary legal-aid by appointing advocate be provided and he may be acquitted from conviction recorded by the ld. trial Judge. As per the request of the accused, by way of legal aid, Mr. Pankaj K.Soni, ld. Advocate was appointed to represent the case of the appellant and appeal was notified for admission earlier before vacation i.e. on 3.5.2003 and even thereafter before vacation as per order dated 6.5.2003. When the matter was notified on 6.5.2003, the matter was adjourned beyond vacation as ld. Advocate was not available. Thereafter, the matter was placed before us on 20.6.2003 and considering the request made by ld. Advocate Mr. Soni, the matter was adjourned for hearing on the point of admission to enable Mr. Soni to study the Record & Proceedings which were received from the trial Court.

2. During hearing, Mr. Soni has taken us through the oral as well as documentary evidence led by the prosecution during the trial. It is the contention of Mr. Soni that looking to the prosecution case, the ld. trial Judge was not right in accepting the evidence of the prosecution witnesses by convicting the appellant accused in a serious offence of murder. He has also argued that the ld. trial Judge has also not taken into consideration the defence taken by the appellant accused which has resulted into miscarriage of justice. The panch witness in respect of recovery of pant of appellant accused at the instance of the accused from well, has not supported the prosecution and further that the said witness has not identified the appellant accused in the Court. He has next urged that the prosecution has kept back relevant document namely Dying Declaration recorded by the Executive Magistrate of deceased Sitaben @ Ritaben and it is his contention that looking to her Dying Declaration, it is her say that one unknown person had thrown acid on her as well as on her sister Sharmishtaben and accordingly, it is his submission that on such evidence, conviction recorded by the ld. trial Judge deserves to be set aside.

3. In light of the contentions raised before us, we

have gone through the entire record of the case and we are, prima facie, of the view that none of the contentions raised by ld. Advocate Mr. Soni helps the appellant accused when ld. trial Judge has, on appreciation of evidence, accepted the prosecution case by convicting the accused for the offence punishable under Section 302 R/w Section 201 of Indian Penal Code and after hearing appellant on the point of sentence, the ld. Judge has ordered the appellant accused to suffer R/I for life and to pay a fine of Rs.5,000/- I/d, to undergo S/I for 30 days for the offence under Section 302 of IPC and no separate sentence was awarded for the offence under Section 201 of IPC and also granted necessary set off to the appellant accused. As found from the record that incident in question had occurred on 6.2.2001 at 3.00 a.m. and it is the prosecution case that the appellant accused had some love affair with deceased Sitaben. As Sitaben was not talking with him since last many days and since deceased Sita was talking with one Rohit Punabhai Baria which appellant accused did not like and to take revenge, on that day at night when Sitaben aged about 13 years and her sister Sharmistha aged about 7 years both daughters of Manharbhai were sleeping on the osri near the house on a cot, at that time, acid from carba which was lying on the Osri was thrown on both the girls and both the girls sustained injuries including two other persons including accused himself who ran away from the place of incident. Thereafter, the pant of the accused was thrown by him in a well. Both the girls Sita and Sharmistha had expired and after completion of investigation, the police had filed chargesheet against the accused for the offences under Sections 302, 201, 324 of IPC as well as under Section 135 of Bombay Police Act.

4. As found from the evidence of P.W.1 Jaganbhai Chimanbhai-P.W.1 who was on duty on 6.2.2001 at casualty ward of S.S.G. Hospital, Vadodara as Duty ASI and at about 7.40 a.m., he received Vardhi from Dr.Gupta informing him that one girl named Ritaben, d/o Manharbhai Viththalbhai Parmar aged about 7 years of village Godadara, Ta: Vaghodia, Dist: Vadodara on the previous night when she was sleeping at her residence at about 3.00 a.m., some unknown person for some motive had thrown acid on her body and she was first taken to Muni Seva Ashram Hospital, Goraj and thereafter for further treatment, the doctor attached to the said hospital had referred the patient with memo for treatment at SSG Hospital and she came with her father early in the morning at 6.05 a.m. at SSG Hospital. That said Sitaben (Ritaben) had died in the hospital during the treatment

at 6.30 a.m. On the strength of the said Vardhi received by him, he noted down the said Vardhi in the Vardhi Register of the SSG Hospital and thereafter sent the said Vardhi to Raopura Police Station which was received by Head Constable Chandrasinh. Thereafter, witness also sent said Vardhi to control room which was received by In-charge of the Control Room. The witness has also proved the entry and yadi which are at exh.8.

5. P.W.2 Ramansinh Mohansinh- Police Head Constable, Chhani, has deposed that he was on duty as Duty Head Constable on 7.2.2001 at SSG Hospital in the Casualty Ward. During the period of his duty, in the night at about 2.55 a.m., he received a Yadi from Dr. Uday Prakash Shah informing him that one girl namely Sitaben, d/o Manharbhai Viththalbhai aged about 10 years of village Godadara, Ta: Vaghodia, Dist; Vadodara, when she was sleeping at her house in the night of 6.2.2001, at about 3.00 a.m., some unknown person had for some reasons thrown acid on her body and she was first taken for treatment at Muni Seva Ashram Hospital, Goraj and thereafter she was referred for further treatment with refer memo at SSG Hospital, she came with her father on 7.2.2001 at SSG Hospital and doctor has declared her as dead at 2.15 a.m. He has noted down said Vardhi in Vardhi Book and he conveyed the message on telephone to Raopura Police Station on telephone. Said Vardhi is proved by him which is at exh.10. Both these witnesses were cross-examined by the defence.

6. P.W.11 Dr. Haresh Budhabhai Kothari has deposed that on 6.2.2001, he was on duty at SSG Hospital in Medico-Legal Department of SSG Hospital and during his duty hours, a deadbody of Sharmistha @ Ritaben was brought by PSI, Vaghodia for post-mortem examination. He performed post-mortem examination of the deadbody of Sharmistha @ Rita and he found that Rita was aged about 7 years. She had burn injuries and he had noted down injuries found on her deadbody in column No.17 of the post-mortem notes. The cause of death was due to shock following the burn injuries. Post-mortem Notes of Sharmistha @ Ritaben is at exh.30. The doctor has further deposed that when he was on duty in the hospital on 7.2.2001, a deadbody of Sitaben was brought by PSI, Vaghodia for post-mortem examination with Yadi. He performed post-mortem examination of the deadbody of Sita who was aged about 13 years. There were burn injuries found on the various parts of her body and injuries which are found on the deadbody of Sitaben were noted in column No.17 of the post-mortem notes. According to the doctor, the cause of death is due to show following the burns and its complications. P.M. Note of Sita is at Exh.31. The

doctor has proved both the post-mortem notes of deceased Sharmistha @ Rita and deceased Sita which are at Exh.30 & 31. The evidence of Doctor is unchallenged. As found from the medical evidence, it is established that because of burn injuries sustained by them, Rita & Sita had died due to show following the burn injuries.

7. P.W.12 Dr. Atul Prabhakar Gupte has deposed that he was on duty at SSG Hospital as Medical Officer on 6.2.2001. At about 6.10 a.m., one patient named Manharbhai Viththalbhai Parmar aged about 35 years came who gave history that he sustained burn injuries through acid and he had burn injuries on both of his legs, hands as well as on belly part. Doctor has referred the patient Manharbhai for treatment in Surgical Department. He also issued certificate regarding injuries found on Manharbhai which he has proved which is at exh.34. He further deposed that on the very day when he was on duty at about 6.00 a.m. Sitaben was referred by Muni Ashram Hospital, Goraj under refer memo wherein history was indicated that she had sustained injuries due to throwing of acid early in the morning at about 3.00 a.m. and her face, chest and back portion was completely found burnt and doctor has referred the said patient Sita for further treatment in Surgical Department. He also issued certificate regarding injuries found on Sita which he has proved which at exh.35. It is further found from his deposition that as patient had expired early in the morning at 2.55 a.m. on 7.2.2001, he made entry to that effect and deadbody was sent to the Cold-Room for post-mortem examination. The Doctor has further deposed that when Rita was brought in the hospital on 6.2.2001, history was given that she sustained burn injuries due to acid and burn injuries were found on her face, chest and on the front portion of her belly completely. The said patient had expired on 6.2.2001 and entry was made in the register at 7.40 a.m. In the cross-examination from the defence, the doctor has admitted that it is true that both the girls had sustained burn injuries due to acid where history was given that somebody had thrown acid on them.

8. The important evidence led by the prosecution is of P.W.13 Dr. Neha Chandrakantbhai. In her evidence, she has deposed that in the month of February-2001, she was working as Medical officer at Primary Health Centre, Vaghodia. On 8.2.2001, one Hashumukhbhai Ishwarbhai Baria of village Lunadara came to her for treatment and on examining Hashmukhbhai, Doctor has found three burn injuries. These injuries were (i) on left knee, (ii) right hand back side, and (iii) on neck, chest and boils

were found in the area of 1 m.m. diameter and nature of injury was found to have been caused by acid or by some inflammable substance. Medical Officer had issued and proved certificate regarding injury sustained by Hashmukhbhai which is at exh.37. She has further deposed that on 6.1.2001 when she was working as Medical Officer in Primary Health Centre, Vaghodia, a that time, Champaben Manibhai Parmar of Godadara came to the hospital with police yadi for treatment and on examination, she had burn injuries on belly part, on the back, on the left and right hand and same was found to be superficial and such injuries can be caused by acid. Doctor has also issued and proved certificate which is at exh.39. She also examined Ritaben,d/o Manharbhai on 6.2.2001 and she had also burn injuries which can be caused by acid. She had also issued and proved certificate exh.40. In the cross-examination, doctor has admitted that injuries which were found on Hashmukh and Champaben were of simple in nature. Doctor has denied the suggestion by saying that it is not correct to say that if any person tries to rescue and if acid is touched then such injury is possible. Doctor has, in fact, admitted that such injury is possible if drops of acid are poured. Hashumukhbhai is the appellant accused who had also sustained burn injuries which can be caused by acid and doctor had issued certificate about the injuries that has been found on the body of the accused.

9. P.W.3 Manharbhai Viththalbhai is the father of the victim and he deposed that the incident in question had occurred early in the morning at 3.00 a.m. on 6.2.2001. He is father of deceased Sharmistha and Sita. On that day night, he along with his Champaben with two sons was sleeping inside the room and outside the room, his two daughters Sitaben and Sharmistha were sleeping on cot and in the adjoining cot, Ritaben and Ranjanben were sleeping. Ranjanben is his sister's daughter. At 3.00 a.m., there were cries from his daughters. Immediately on hearing the cries, he opened the door and his daughter Sitaben embraced him and other daughter Sharmisthaben also embraced his wife and they saw that the acid was sprinkled/poured on his both the daughters and both the daughters sustained very severe burn injuries. He is doing business in Milk and in his business, he used to keep acid which is kept on the Ota of the house in carba. It is further found from the evidence that cloths of both the daughters were burnt and mattresses were also found burnt and acid carba was also found on cot. Because of hue and cries, Parvatbhai, Rajubhai, Shantaben, Kanaksinh and Laxmansinh etc. had come and injured daughters were taken to Primary Health Centre at Goraj where doctor has

treated the injured and from there both the daughters were shifted to SSG Hospital for better treatment. His daughter Sharmisthaben had died and another daughter Sita had died at 2.00 a.m. While giving names, he has given name of Sharmistha as Rita by mistake. In fact, Sharmistha had died. His second daughter Sita had died early in the morning at 2.00 hours.There are two groups (Mandals) in the village. Chuko @ Hashmukh had love affair with Sita and Sita was not talking with Chuko Hashmukh since last about 15 days and she was talking with Rohit which Hashmukh did not like and so Chuko Hashmukh had thrown acid on Sita. The witness had identified the accused in the Court. In cross-examination, a suggestion is put about the placing of carba of acid and what he has stated in his police statement. In the cross-examination, he has stated when both the daughters were taken for treatment at Goraj, at that time both the daughters were alive and they had taken injured daughters on scooter. The witness has admitted that it is correct to say that Hashumukh had love affair with his daughter Sita and since last about 15 days, Sita was not talking with Hashmukh and she was talking with Rohit and this fact was not known to him. However, this witness volunteered that this fact came to his knowledge through village people. He has denied the suggestion that such a theory which he has deposed is a concocted theory.

10. P.W.4 Vijaybhai Madhavbhai Parmar, examined by the prosecution, is resident of village Godadara. As found from his deposition that he came to early in the morning through his mother that somebody had thrown acid on two daughters of Manharbhai. That he had gone to service without taking tiffin with him and because of occurrence of this incident, he returned early from service. Many village people had gathered and he inquired about the incident from people who had gathered there. Accused Chuko @ Hashmukh was not found there and he was also not found at his residence.Therefore, he suspected on Chuko. He further deposed that prior to two days of incident, witness Vijay, Ranjeet, accused Chuko @ Hashmukh, Arvind, Gopal, Dadu etc. were playing cricket and that was a Sunday and on that day Chuko told him to accompany him and took him at the old well situated out side the village and there accused Chuko told him that Sita is not talking with him and is talking with Rohit and he has to do something to separate them. Thereupon, witness inquired from him as to what he will do and at that time accused Chuko told him that he will sprinkle/ pour acid on her. So, the witness persuaded him not to do this and if he does, he will create some

difficulty. Thereafter, both of them returned home.House of Chuko is very close to the house of this witness and witness has also identified the accused in the Court. In the cross-examination, he has admitted that he has not met the police till today. He has denied the suggestion that he had love-affair with Gita-elder sister of Sita. He also denied the suggestion that as he was in love with Gita, accused was telling him that you cannot do that as witness is the neighbour. Witness serves at GIDC, Vaghodia. On the previous day of incident, his service was for full day. His service hours are from 8.00 a.m. in the morning to 8.00 p.m. The witness has also denied the suggestion that he has concocted the story of throwing acid by Chuko on Sita at the instance of Manharbhai. He has also denied the suggestion that he has appraised Chuko that if he throws acid, then he will be in trouble and that he has not stated in the police statement and he is telling for the first time in the Court.

11. P.W.6 Rameshbhai Ravjibhai is the panch witness and has turned hostile to the prosecution. Rameshbhai Ravjibhai has not supported the prosecution and accordingly at the request of ld. PP, the witness was cross-examined. As found from his cross-examination, accused Chuko @ Hashmukh is the son of his maternal uncle. In the cross-examination, at the instance of ld. PP, he had sated that he has stated in his police statement that near his shop (galla), accused Chuko was sitting putting shawl on him and accordingly he inquired from him at that time as to what had happened, but the accused had not uttered a word and he asked the accused to go to his house. He has also admitted that it is not correct to say that in his police station, he has stated that he found burn injury on the palm of the right hand of the accused having swelling and when he inquired from the accused, accused told him that he received burn injuries from acid due to his dash with acid carba put on the osri of Manubhai staying at the opposite house and accordingly Hashumukh was taken to the hospital of Dr. Jogendra situated near Bhathiji temple and doctor after examining accused Hashmukh, has prescribed one ointment and he had paid Rs.25/ and said tube was purchased from the medical store which was situated opposite to his house and applied the said tube on the burnt portion of the injuries sustained by the accused. In the cross-examination, he has denied that it is not correct that he know nothing in respect of throwing of acid and he has denied the suggestion that it is not correct to say that his maternal uncle's son Chuko has not come to his house and no treatment was provided.

12. P.W.7 Dr. Jogendra Manubhai Desai has deposed that he is practising as a Doctor at Vasad since last 24 years. He is M.B.B.S. On 6.2.2001, at about 10.00 to 10.30 a.m., one person had come having burn injuries on the hand and chest. His name was Hashmukhbhai Baria. He prescribed Medicine and he issued certificate regarding injuries which he has proved which is at exh.22. The witness has also identified the accused in the Court. In the cross-examination, he has denied the suggestion that it is not correct to say that he is not keeping any medical case papers. He says that he prepares note. He has also denied that his statement was read over by police today and further that the accused was identified by him in the Court. He has denied the suggestion that he has not provided treatment to the accused and he is deposing falsely at the instance of police and he had identified the accused in the Court at the instance of police.

13. P.W.8 Rajeshkumar Gunvantlal Soni has deposed that he is having Gurukrupa Medical Store at Vasad. That on 6.2.2001, one patient came with prescription of Dr. Jogendra at about 12.30 p.m. The prescription was for medicine tube "Betnovet". This medicine is useful for burn injuries or for infection.

14. The prosecution has also examined Dr. Neha Chandrakantbhai, Dr. Haresh Budhabhai Kothari. Certificate issued by Dr. J.N. Desai is at exh.22. Arrest panchanama of the accused is at exh.20. Post Mortem notes are at exh.30 & 31. Medical certificate showing injuries on the accused is at exh.37. FSL report is at exh.55. As per the medical evidence and the Post Mortem notes of deceased Sharmisthaben (Ritaben), cause of death was found to be the shock following the burns. Injuries found on the deadbody is also described in column no.17 of the Post Mortem Notes. In the Post Mortem Notes of deceased Sitaben aged about 13 years, in column no.17 burn injuries are described by the doctor who had performed Post Mortem and cause of the death is also stated to be the shock due to burns and its complications. Dr. Neha Chandrakantbhai P.W.13 had deposed that she was working as Medical Officer in Primary Health Centre, Vaghodia on 8.2.2001. She examined Hashmukhbhai Ishwarbhai Baria of village Lunadara. Accused had burn injuries on the back side of his right hand and she had also found burn injuries on the neck and chest of Hashmukhbhai and type of injury was burning due to inflammable substance or acid. She issued certificate exh.39 which is also proved through her

evidence.

15. The prosecution has examined P.W.9 Jayantibhai Gordhanbhai who has acted as a Panch along with other Panch Shri Ramanbhai and at the instance of accused Hashmukh, he had shown the pent which was lying in the well. He has deposed that well was about 100 ft. deep and one Shri Arvindbhai Chandubhai with the help of rope, had gone in to the well and Arvindbhai has taken out one pent which was tied with the stone. After opening the said pent, on the left hand side, said pent was found burnt with acid and there were many holes on the said pent. He proved panchanama exh.25. He has also further deposed that he also acted as a Panch second time when arrest panchanama of the accused was drawn. Accused had was having burn injuries which was caused by acid on his body. Arrest panchanama is also proved by this witness which is at exh.26. In the cross-examination, it is the suggestion of the defence that accused has not shown the said pent and no such panchanama was drawn as deposed by the accused and that suggestion was denied by the witness.

16. P.W.10 Arvindbhai Chandubhai has not supported the prosecution and at the instance of ld. P.P. and with the permission of Court, said Arvindbhai was cross-examined by ld. P.P. He has denied that it is not correct to say that in his police statement, he has stated that prior to the incident, accused Hashmukh and his brother Mahesh and Ranjit were sleeping on the ota situated in Osri and thereafter accused Hashmukh was not found on the mattress and the accused left the place. Arvindbhai P.W.10 has denied what he has stated in his police statement and these contradictions are proved from the evidence of the Investigating Officer.

17. Ld. trial Judge on appreciating evidence has recorded the finding by holding that the prosecution has established and proved that appellant accused had thrown acid on deceased Sharmistha and deceased Sita and thereby committed the offence of murder i.e. section 302 of Indian Penal Code and further that by throwing acid by the accused on Manharbhai and Champaben, both the witnesses had sustained burn injuries and accused had thereby committed offence under Section 324 of Indian Penal Code. The ld. trial Judge has also while accepting the prosecution case, has held that accused had while throwing his pent in the well, had tried to destroy the evidence and thereby committed offence under Section 201 of Indian Penal Code. Ld. trial Judge has not accepted the prosecution case that prosecution has failed

to establish the case against the accused for the offence under Section 135 of Bombay Police Act. The ld. trial Judge has in terms while appreciating the evidence, has held that as the incident in question has occurred late at night, there is no possibility of any other independent witness. Ld. trial Judge has, while considering other circumstances to establish the guilt against the accused has placed reliance upon the circumstances, namely (i) that after throwing acid on the deceased, the accused has left the village, and (ii) by throwing acid on the deceased as well as other prosecution witnesses, the accused had also sustained burn injuries which have been caused by acid. During the investigation, the police has recovered pent of the accused having found with holes on the pent which have been caused due to acid. The appellant accused had also sustained burn injuries that can be caused by acid and for which injuries the doctor has prescribed medicine and further that the motive suggested by the prosecution is also established that deceased Sita was not talking with accused and he was talking with one Rohit and to take revenge, accused had thrown acid on deceased Sita. Ld. trial Judge has not accepted the statement of the accused in his defence that he tried to save Sita he has sustained burn injuries. However, it is established from the evidence that after throwing acid on Sita, the accused had left the village and has gone to Vasad where he has taken treatment. Ld. trial Judge has also not accepted the further statement of the accused that he tried to save Sita and ld. trial Judge has in terms recorded finding that as the accused has left the village immediately after throwing the acid, that conduct itself goes against the accused and accused has not remained with injured allthroughout during the treatment and the accused has after leaving the village, has taken the treatment at Vasad.

18. Considering the contention of Mr. Soni that the prosecution has, for the reasons best known, has kept back Dying Declaration (DD for short) of the deceased recorded by Sub Divisional Magistrate and according to ld. counsel Mr. Soni, in the Dying Declaration, the deceased had not disclosed the name of the appellant and according to the deceased, some unknown person had thrown the acid on her and further that the prosecution has not examined Sub Divisional Magistrate who has recorded the DD. To examine this contention of Mr. Soni, in our view, it is hardly relevant whether non-examination of Sub Divisional Magistrate nor non-production of DD of deceased is not fatal to the prosecution. It is fact that incident in question had occurred at night at 3.00

a.m. It is also equally true that Sub Divisional Magistrate has recorded the DD and as found from the DD, it is her say before the Sub Divisional Magistrate that she sustained burn injuries through acid and the person who has thrown acid is unknown person and the said person has ran away. She has also stated that because of throwing of acid, she had sustained burn injuries on her eyes. It is further found from the post-mortem notes of deceased that she had sustained burn injuries on her eyes. At night at 3.00 a.m., both the sisters were sleeping on a cot and in such a situation when in her DD she has stated that she has sustained injuries on her eyes on account of throwing of acid by unknown person, it clearly shows that when she was sleeping, at that time by throwing acid on her, she sustained burn injuries on her eyes and, therefore, she was not in a position to identify and disclose the name and she has rightly stated that some unknown person had thrown acid on her. It is also relevant that as per the defence of the appellant accused, his defence is that he was not present and his further defence also suggests that according to the appellant accused that on hearing cries, he ran to rescue the injured and he also tried to save the injured and thereby he sustained burn injuries. This defence clearly indicates that at that time the accused was very much present there. Non-examination of Sub Divisional Magistrate, in our view, is not fatal to the prosecution case.

19. No other contention is raised.

20. In our view, in light of the evidence led by the prosecution, the ld. trial Judge was right in accepting the prosecution case by convicting the accused in serious offence of murder. As observed earlier, two young girls have lost their lives. In our view, finding recorded by the ld. trial Judge is based on appreciation of evidence and further all the circumstances considered by the ld. trial Judge indicates that it is the accused who had thrown acid on the deceased girls. In our view, therefore, no interference is required in the order under challenge and accordingly appeal requires tobe dismissed summarily.

21. Appeal is accordingly dismissed summarily. Impugned order of conviction and sentence recorded by ld. Addl. Sessions Judge, Vadodara in Sessions Case No. 113/2001 on 3.1.2003 is hereby confirmed. Registry is directed to sent R & P forthwith to the trial Court.

01.07.2003 [D.K. TRIVEDI,J]

[C.K. BUCH, J]

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